

**REMARKS/ARGUMENTS**  
**35 USC § 103(a)**

Reconsideration and allowance are requested of Claims 1-6 which the Examiner has rejected under 35 USC § 103(a) as being unpatentable over Giguere in view of Higgins. Applicant respectfully requests allowance of New Claims 7-11. A *prima facie* case of obviousness requires (1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, (2) there must be a reasonable expectation of success, *and* (3) the prior art references must teach or suggest all the claim limitations. In re Sang-Su Lee, 277 F.3rd 1338, 61 USPQ 2d 1430 (Fed. Cir. 2002) (and cases cited therein). Applicant respectfully submits that a *prima facie* case has not been established because the prior art references do not teach or suggest all the claim limitations.

**Claims 1 and 6**

Applicant respectfully submits that Claims 1 and 6 are patently distinguishable from Giguere and Higgins. Applicant's Amended Claims 1 and 6 claim a "short flow grain milling process" wherein finished product is removed from the mill stream "from each separation step." Giguere's FIG. 9 does not disclose this significant feature of Applicant's claimed invention because it shows multiple separation steps where no finished product is removed from the mill stream. The significance of removal of finished product after each separation step is two fold, and demonstrates the difference from the cited prior art. First, by removing finished product, the state of the desired

finished product is preserved. In other words, leaving the finished product in the process to go through further milling operations reduces the percentage of grit and increases the percentage of flour – not necessarily a desirable end result. Second, by removing finished product after each separation, the claimed invention is able to achieve more throughput, allowing for more total production without adding expensive equipment in order to increase the capacity of the milling process.

Applicant respectfully submits that Higgins does not teach or suggest a process similar to Applicant's claimed process because Higgins does not teach or suggest "a grain milling process," rather; Higgins discloses a mobile process for removing the kernels of corn from the ears of corn. A "milling process" would require breaking the kernels of corn into flour, meal, or some other product. Higgins' process is therefore patently distinguishable from the milling steps (e.g. breaking steps) of Applicant's claimed invention.

#### New Claims 7-11

Claims 7-11 claim a transportable grain milling process as shown in Applicant's FIGS. 5 and 6, and described in Applicant's specification. The transportable short flow process is advantageous over the cited prior art process because Applicant's claimed invention has several different grain streams moving simultaneously through the process. Sifters separate the grain into these separate streams by size so that different streams are directed to different break rollers which may have different settings appropriate for the particular size of grain in that stream. Applicant's claimed process

allows the appropriately sized grain to be directed to the grain stream that will most efficiently process that size of grain. For example, after degermination and an initial separation step, it may be more efficient for a particular size of grain to skip the first and second break rollers and be diverted directly to the third break roller. In this case, Applicant's Claim 7 claims that "at least one of the remaining size classes from the first separation step [is diverted to] to a third break roller." This increases efficiency and grain throughput by allowing the proper sized grain to be immediately directed to the proper break roller. This allows Applicant's process to be more easily transportable because a superior yield can be obtained with fewer pieces machinery.

Further, as discussed above with regard to Claims 1 and 6, Claim 7 claims that finished product is removed from the mill stream after each separation step. This is not taught or suggested by the cited prior art, and is advantageous over the cited prior art for the reasons stated above with regard to Claims 1 and 6.

Applicant respectfully submits that the claims not discussed above are dependant on either Claim 1 or Claim 7, and are therefore patentable for the reasons asserted above.

It is respectfully submitted that this response places Applicant's application in condition for allowance, and therefore further and favorable action on this application is requested.

Respectfully submitted,  
JOHN GRIEBAT


By: 

Ryan N. Carter  
Attorney for Applicant

Ryan N. Carter  
Shuttleworth & Ingersoll, PLC  
115 3<sup>rd</sup> Street SE, Suite 500  
P.O. Box 2107  
Cedar Rapids, IA 52406  
Phone: (319) 365-9461  
Fax: (319) 365-8443  
Email: [rnc@shuttleworthlaw.com](mailto:rnc@shuttleworthlaw.com)  
Reg. No.: 51,533  
July 19, 2004

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 19, 2004.

  
Ryan N. Carter, Registered Representative